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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/768,221 | 01/29/2004 | Rolf Lehmann | RICHT-45094 | 6193 |
| 26252 | 7590 | 12/02/2004 | EXAMINER | |
| KELLY BAUERSFELD LOWRY & KELLEY, LLP 6320 CANOGA AVENUE SUITE 1650 WOODLAND HILLS, CA 91367 | | | PATEL, TAJASH D | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 3765 |
| DATE MAILED: 12/02/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/768,221 | ROLF LEHMANN | |
| | Examiner | Art Unit | |
| | Tejash D Patel | 3765 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 1/29/04.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

1. Claims 15 and 16 are objected to because of the following informalities: The use of the trademark "Velcro" has been noted in claims 15 and 16. It should be deleted wherever it appears and be accompanied by the generic terminology such as -- hook and loop fastener --.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrews et al. (US 5,965,223).

Andrews et al. (hereinafter Andrews) discloses a protective textile material (1) including at least one inner layer (13) made of cut resistant material defined by lining thread and loop, col. 5, lines 42-44 (figures 1 &2) and at least a second layer being made of flame retardant material, col. 3, lines 34-39. Further, the second layer protects against fire and melting when

used with the inner layer. Additionally, the textile material forms a protective clothing, such as a jacket col. 4, lines 35-40.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews.

With regard to claim 3, it would have been obvious to one skilled in the art that the cut resistant material having lining thread and loops will protect the user when using power tools or depending on a particular application thereof

6. Claims 6-11 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews in view of Johnson (US 3,774,240)

Andrews discloses the invention as set forth above except for showing an overall with leg sleeves forming two pant legs with a lower area thereof having a spaced apart ring from an entry hole of each sleeve.

Johnson discloses an overall made of fire retardant material, col. 1, lines 60-65, with leg sleeves forming two pant legs (20, 21) with a lower area thereof having a spaced apart plastic/metal ring (51) within casing (34) from an entry hole of each sleeve, col. 3, lines 22-33 and as shown in figure 1. Further, the leg sleeves are connected to an upper chest section (14). Additionally, a lap belt system/casing (28) is provided to secure the overall about the body. Also, the overall has a neck belt (19).

It would have been obvious to one skilled in the art to form the flame retardant and cut resistant protective garment of Andrews into an overall with leg sleeves forming two pant legs with a lower area thereof having a spaced apart ring from an entry hole of each sleeve as taught by Johnson. Doing so, would allow the garment to be closely worn about the legs while protecting the entire body. Furthermore, it would have been obvious that the ring of Johnson when being viewed with base reference of Andrews can be substituted with straps, zipper, buckles, etc since such fastening means are considered equivalent in the art.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews in view of Johnson and Cox (US 5,220,692)

Andrews discloses the invention as set forth above except for showing a neck belt having locking means.

Cox discloses an apron (8) having an adjustable neck belt (1) with locking means (2), col. 2, lines 45-55 and as shown in figure 1.

It would have been obvious to one skilled in the art to form the neck belt of the flame retardant and cut resistant overall of Andrews when viewed with Johnson can be adjustable with a locking means as taught by Cox, so that the apron conforms about different sized necks.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

November 23, 2004



TEJASH PATEL
PRIMARY EXAMINER